

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:04-CR-00271-RJC-DCK

USA

v.

NICHOLAS RAGIN (7)

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ORDER

THIS MATTER is before the Court upon motions of the defendant pro se for for a reduction of sentence based on the First Step Act of 2018. (Doc. Nos. 582, 583).

After the defendant successfully attacked his original convictions resulting from a jury verdict, United States v. Ragin, 820 F.3d 609 (4th Cir. 2016), he pled guilty to conspiring to possess with intent to distribute 50 grams or more of cocaine base and to use a person a minor in furtherance of that offense. (Doc. No. 578: Amended Judgment at 1). He faced a statutory range of punishment of five to eighty years and an advisory guideline range of 235 to 293 months' imprisonment and eight years' supervised release. (Doc. No. 572: Presentence Report at 19). On December 13, 2016, the Court accepted the parties' plea agreement limiting the sentence to no more than 235 months pursuant to Federal Rule of Criminal Procedure 11(c)(1)(C) and varied below the advisory guideline range to 211 months' imprisonment based on the defendant's post-sentencing rehabilitation. (Doc. No. 558: Plea Agreement at 2; Doc. No. 578: Amended Judgment at 2).

The defendant claims he is eligible for immediate release under the First Step Act. (Doc. No. 582 at 1; Doc. No. 583 at 2). However, Section 404(c) of the Act

specifies that a court “shall not entertain” a reduction motion where the sentence was imposed in accordance with the Fair Sentencing Act of 2010. First Step Act of 2018, Pub. L. 115-135 (2018). Here, the defendant was subject to the reduced statutory penalty for his admitted drug weight of 50 grams or more of cocaine base under 21 U.S.C. § 841(b)(1)(B) as amended by the Fair Sentencing Act; therefore, he is not eligible for a sentence reduction under the First Step Act. Even if the Court had discretion to grant a reduction, the Court would continue to find the imposed sentence is sufficient, but not greater than necessary, to accomplish the goals of sentencing in 18 U.S.C. § 3553(a) for the reasons stated at the sentencing hearing.

IT IS, THEREFORE, ORDERED that the defendant’s motions, (Doc. Nos. 582, 583), are **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: February 26, 2019

A handwritten signature in black ink, reading "Robert J. Conrad, Jr.", written over a horizontal line.

Robert J. Conrad, Jr.
United States District Judge

